THE HON'BLE MR JUSTICE D. APPA RAO

W.P.No.10017 of 2006

Dated: 23rd May 2006

Between:

Mohammed Abdual Rehaman

Muslim, 30 years, Occ: Business,

R/o D.No. 28-1-49, Main Road,

Kakinada, East Godavari District.

….Petitioner

And

The Commissioner,

Kakinada Municiapal Corporation,

Kakinada, East Godavri District.

……Respondent

THE HON'BLE MR JUSTICE D. APPA RAO

W.P.No.10017 of 2006

ORDER:

Petitioner questions the action of the respondents in widening the road by demolishing his building bearing D.No.28-1-49, Main Road, Kakinada, without issuing any notice under the provisions of Sections 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') and without paying any compensation under the provisions of the Land Acquisition Act, as illegal and arbitrary.

2. With the consent of both the parties, the matter is taken up for final disposal.

3. Heard the learned counsel for the petitioner as well as the learned Standing counsel appearing for the respondents.

4. It is the case of the petitioner that he is the absolute owner and possessor of the building bearing D.No.28-1-49, Main Road Kakinada East Godavari District.

5. The learned counsel for the petitioner further submits that the respondents, without issuing any notice and without initiating any proceedings and without paying any compensation, trying to demolish the building of the petitioner for widening of road. The learned counsel for the petitioner further submits that the action of the respondents without following due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894, is utter violation of the principles of natural justice as well as Section 146 or 147 of the Act.

6. Admittedly, this Court in a some what similar case in W.P.No.3345 of 2006, by order dated 23-02-2006, directed the Municipal Corporation, Kakinada not to demolish the structures of the building or take away any portion of the property of the petitioner, without following due process of law either under Sections 146 and 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act.

7. While considering this contention, this Court opined that the road widening is in the public interest. But, while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

8. Undoubtedly, the Municipal Corporation has to issue notice before acquiring the building or property belonging to the petitioner for widening the road. The very decision applies on all fours of the case on hand.

9. Considering the above circumstances, the writ petition is disposed

of directing the respondents not to demolish the structures or take away any portion of the property of the petitioner without following due process of law either under Sections 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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(D. APPA RAO, J)

Date: 23rd May 2006.

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